

CHAPTER 64

CHILDREN AND DOMESTIC MATTERS

SENATE BILL 21-066

BY SENATOR(S) Lee, Bridges, Buckner, Donovan, Ginal, Hansen, Jaquez Lewis, Kolker, Moreno, Pettersen, Priola, Rodriguez, Story, Winter, Garcia;

also REPRESENTATIVE(S) Michaelson Jenet, Amabile, Arndt, Bacon, Bernett, Bird, Cutter, Esgar, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jackson, Kennedy, Lontine, McCormick, Mullica, Ortiz, Ricks, Sandridge, Titone, Valdez A., Van Beber, Weissman, Woodrow, Young.

AN ACT**CONCERNING JUVENILE DIVERSION PROGRAMS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 19-2-202 as follows:

19-2-202. Responsible agencies. The department of human services is the single state agency responsible for the oversight of the administration of juvenile programs and the delivery of services for juveniles and their families in this state. In addition, the department of human services is responsible for juvenile parole. The state judicial department is responsible for the oversight of juvenile probation. The department of public safety is responsible for the oversight of community diversion programs AND PROGRAMS FUNDED THROUGH THE ALLOCATION AUTHORIZED IN SECTION 19-2-303 (2). The state agencies described in this section shall jointly oversee the application by judicial districts of the placement criteria established by the working group as provided in PURSUANT TO section 19-2-212.

SECTION 2. In Colorado Revised Statutes, 19-2-303, **amend** (1)(a), (2), (4), (5), and (6)(a); and **add** (3)(d.5), (4.5), and (9) as follows:

19-2-303. Juvenile diversion program - authorized - report - allocation of money - legislative declaration - definitions. (1) (a) In order to more fully implement the stated objectives of this title 19, the general assembly declares its intent to establish a juvenile diversion program that ~~when possible~~ integrates restorative justice practices to provide community-based alternatives to the formal court system ~~that will~~ TO reduce juvenile crime and recidivism and improve positive

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

juvenile outcomes, change juvenile offenders' behavior and attitudes, promote juvenile offenders' accountability, recognize and support the rights of victims, heal the harm to relationships and the community caused by juvenile crime, and reduce the costs within the juvenile justice system.

(2) The division of criminal justice of the department of public safety is authorized to establish and administer a juvenile diversion program that seeks to divert youth from the juvenile justice system and ~~when possible integrates~~ INTEGRATE restorative justice practices. ~~In order~~ To effectuate the program, the division shall allocate money ~~to~~ WITHIN each judicial district and may contract with district attorneys' offices, governmental units, and nongovernmental agencies for reasonable and necessary expenses and services to serve each judicial district to divert juveniles and provide services, if warranted, for eligible juveniles through community-based programs providing an alternative to ENTRY INTO THE FORMAL LEGAL SYSTEM, a petition filed pursuant to section 19-2-512, or an adjudicatory hearing pursuant to ~~section 19-3-505~~ SECTION 19-2-804.

(3) For purposes of this section:

(d.5) "RESTORATIVE JUSTICE" HAS THE SAME MEANING AS SET FORTH IN SECTION 19-1-103.

(4) District attorneys' offices or their designees shall:

(a) On and after January 1, 2021, conduct a risk screening using a risk screening tool selected pursuant to section 24-33.5-2402 (1)(c) for all juveniles referred to the district attorney pursuant to section 19-2-510 unless THE JUVENILE IS CURRENTLY COMMITTED OR ON PAROLE, a determination has already been made to divert the juvenile, OR the district attorney declines to file charges, dismisses the case, or charges the juvenile with a class 1 or class 2 felony. The district attorney's office shall conduct the risk screening or contract with an alternative agency that has been formally designated by the district attorney's office to conduct the screening, in which case the results of the screening must be made available to the district attorney's office. The entity conducting the screening shall make the results of the risk screening available to the ~~youth~~ JUVENILE and family. All individuals using the risk screening tool must receive training on the appropriate use of the tool. The risk screening tool is ~~to be used to inform about~~ FOR INFORMING decisions about diversion. The risk screening tool and any information obtained from a juvenile in the course of any screening, including any admission, confession, or incriminating evidence, obtained from a juvenile in the course of any screening or assessment in conjunction with proceedings ~~under~~ PURSUANT TO this section or made in order to participate in a diversion or restorative justice program is not admissible into evidence in any adjudicatory hearing in which the juvenile is accused and is not subject to subpoena or any other court process for use in any other proceeding or for any other purpose.

(a.5) USE THE RESULTS OF THE RISK SCREENING TO INFORM ELIGIBILITY FOR PARTICIPATION IN A JUVENILE DIVERSION PROGRAM AND THE LEVEL AND INTENSITY OF SUPERVISION FOR JUVENILE DIVERSION;

(b) ~~Use the results of the risk screening to inform:~~

~~(I) Eligibility for participation in a juvenile diversion program;~~

~~(II) The level and intensity of supervision for juvenile diversion;~~

~~(III) The length of supervision for juvenile diversion; and~~

~~(IV) What services, if any, may be offered to the juvenile. Professionals involved with the juvenile's needs, treatment, and service planning, including district attorneys, public defenders, probation, and state and local governmental entities, such as the departments of human or social services, may collaborate to provide appropriate diversion services, in jurisdictions where they are not currently available.~~

(c) Not deny diversion to a juvenile based on the juvenile's:

(I) Ability to pay;

(II) Previous or current involvement with the departments of human or social services;

(III) Age, race or ethnicity, gender, or sexual orientation, OR GENDER IDENTITY;
or

(IV) Legal representation;

(d) Align the juvenile diversion program's policies and practices with evidence-based practices and with the definition of "diversion" pursuant to section 19-1-103; ~~(44)~~; and

(e) Collect and submit data to the division of criminal justice pursuant to subsection (5) of this section.

(f) ESTABLISH AND MAKE PUBLIC ANY ELIGIBILITY CRITERIA FOR PARTICIPATION IN A JUVENILE DIVERSION PROGRAM AND USE THE RESULTS OF THE RISK SCREENING TO MAKE DECISIONS ON ELIGIBILITY CRITERIA.

(4.5) DIVERSION PROGRAMS MAY USE THE RESULTS OF AN APPROVED VALIDATED ASSESSMENT TOOL TO INFORM:

(a) THE LEVEL AND INTENSITY OF SUPERVISION FOR JUVENILE DIVERSION;

(b) THE LENGTH OF SUPERVISION FOR JUVENILE DIVERSION; AND

(c) WHAT SERVICES, IF ANY, MAY BE OFFERED TO THE JUVENILE. PROFESSIONALS INVOLVED WITH THE JUVENILE'S NEEDS, TREATMENT, AND SERVICE PLANNING, INCLUDING DISTRICT ATTORNEYS, PUBLIC DEFENDERS, PROBATION, AND STATE AND LOCAL GOVERNMENTAL ENTITIES, SUCH AS THE STATE DEPARTMENT OF HUMAN SERVICES AND COUNTY DEPARTMENTS OF HUMAN OR SOCIAL SERVICES, NONGOVERNMENTAL AGENCIES, AND INDIVIDUALS COLLABORATING TO PROVIDE APPROPRIATE DIVERSION SERVICES.

(5) (a) The division of criminal justice, in collaboration with district attorneys or diversion program directors who accept formula money and programs providing juvenile diversion services, shall establish minimum data collection requirements and outcome measures that each district attorney's office, governmental unit, and nongovernmental agency shall collect and submit annually for all juveniles referred to the district attorney pursuant to section 19-2-510. ~~including, but not limited to~~ THE DATA SUMMARY MUST INCLUDE, AT A MINIMUM:

~~(a)~~ (I) Demographic data on age, race or ethnicity, ~~and~~ gender, SEXUAL ORIENTATION, AND GENDER IDENTITY;

~~(b)~~ (II) Risk screening conducted;

~~(c)~~ (III) Risk level as determined by the risk screening or, if no screening was completed, the reason why ~~the~~ A screening was not completed;

~~(d)~~ (IV) Offense;

~~(e)~~ (V) Diversion status;

~~(f)~~ (VI) Service participation AND WHETHER THE SERVICE WAS PROVIDED BY COMMUNITY PARTNERS OR IN-HOUSE;

~~(g)~~ (VII) Program completion data;

(VIII) REFERRAL TO RESTORATIVE JUSTICE SERVICES;

~~(h)~~ (IX) Child welfare involvement; and

~~(i)~~ (X) Identifying data necessary to track the long-term outcomes of diverted juveniles.

(b) NOTWITHSTANDING THE REQUIREMENTS OF SECTION 19-1-303 TO THE CONTRARY, ON OR BEFORE AUGUST 1, 2021, AND CONTINUING EVERY AUGUST 1 THEREAFTER, EACH DISTRICT ATTORNEY SHALL REPORT TO THE DIVISION OF CRIMINAL JUSTICE THE NAME AND DEMOGRAPHIC DATA FOR ANY JUVENILE WHO WAS GRANTED JUVENILE DIVERSION FOR A TICKET, SUMMONS, OR OFFENSE SINCE THE DATE OF THE PREVIOUS REPORT. THE DEMOGRAPHIC DATA MUST INCLUDE AGE, RACE AND ETHNICITY, GENDER, SEXUAL ORIENTATION, AND GENDER IDENTITY. THE REPORTS MUST COVER THE STATE FISCAL YEARS FROM JULY 1 THROUGH JUNE 30.

(c) ON OR BEFORE AUGUST 1, 2021, AND EVERY AUGUST 1 THEREAFTER, EACH AGENCY THAT RECEIVES DIVERSION MONEY PURSUANT TO SUBSECTION (7) OF THIS SECTION SHALL REPORT ON THE NUMBER OF JUVENILES WHO WERE SCREENED FOR ELIGIBILITY FOR DIVERSION SINCE THE DATE OF THE PREVIOUS REPORT BUT SUBSEQUENTLY REJECTED. THE REPORT MUST INCLUDE, AT A MINIMUM, DEMOGRAPHIC DATA SUCH AS AGE, RACE AND ETHNICITY, GENDER, SEXUAL ORIENTATION, AND GENDER IDENTITY. THE REPORTS MUST COVER THE STATE FISCAL YEARS FROM JULY 1 THROUGH JUNE 30.

(d) FOR THE PURPOSES OF THIS SUBSECTION (5), WHEN COLLECTING DEMOGRAPHIC

DATA FROM A YOUTH, DISTRICT ATTORNEYS' OFFICES, GOVERNMENTAL UNITS, AND NONGOVERNMENTAL AGENCIES SHALL PROVIDE THE YOUTH WITH AN OPTION TO DECLINE TO DISCLOSE DEMOGRAPHIC INFORMATION.

(6) (a) IN COLLABORATION WITH THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, ~~each program providing services under~~ PURSUANT TO THIS SECTION SHALL DEVELOP OBJECTIVES AND REPORT PROGRESS TOWARD SUCH OBJECTIVES AS REQUIRED BY RULES PROMULGATED BY THE DIRECTOR.

(9)(a) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW, AND APPROVE IF APPROPRIATE, ANY ASSESSMENT INSTRUMENT FOR USE PURSUANT TO SUBSECTION (4.5) OF THIS SECTION.

(b) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REEVALUATE ANY INSTRUMENT APPROVED PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION AT LEAST ONCE EVERY THREE YEARS.

SECTION 3. In Colorado Revised Statutes, 19-2-303, **amend** (7) as follows:

19-2-303. Juvenile diversion program - authorized - report - allocation of money - legislative declaration - definitions. (7) ~~A formula must be established for the purpose of allocating money to~~ THE FORMULA ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY MUST BE USED TO ALLOCATE MONEY WITHIN each judicial district in the state of Colorado for juvenile diversion programs. ~~The executive director of the department of public safety is authorized to accept and expend on behalf of the state any funds, grants, gifts, or donations from any private or public source for the purpose of providing restorative justice programs; except that no gift, grant, or donation shall be accepted if the conditions attached to it require the expenditure thereof in a manner contrary to law.~~ THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW THE FORMULA EVERY THREE YEARS. THE DIVISION OF CRIMINAL JUSTICE SHALL PRIORITIZE FUNDING FOR PROGRAMS THAT INCLUDE RESTORATIVE JUSTICE PRACTICES. THE DIVISION OF CRIMINAL JUSTICE MAY CONTRACT WITH DISTRICT ATTORNEYS' OFFICES, GOVERNMENTAL UNITS, AND NONGOVERNMENTAL AGENCIES FOR REASONABLE AND NECESSARY EXPENSES FOR SERVICES TO SERVE EACH JUDICIAL DISTRICT TO UTILIZE IN DIVERTING JUVENILES AND TO PROVIDE SERVICES, IF WARRANTED, FOR ELIGIBLE JUVENILES THROUGH COMMUNITY-BASED PROGRAMS THAT PROVIDE AN ALTERNATIVE TO ENTRY INTO THE FORMAL LEGAL SYSTEM, A PETITION FILED PURSUANT TO SECTION 19-2-512, OR AN ADJUDICATORY HEARING HELD PURSUANT TO SECTION 19-2-804.

SECTION 4. In Colorado Revised Statutes, 20-1-113, **amend** (4) as follows:

20-1-113. Reporting of criminal proceedings involving public school students. (4) Notwithstanding ~~the provisions of~~ section 19-1-303 (5), C.R.S., commencing August 1, 2015, and continuing every August 1 every year thereafter, each district attorney shall report to the division of criminal justice IN THE DEPARTMENT OF PUBLIC SAFETY the name of any student who was granted ~~pre-file~~ juvenile or adult diversion for a ticket, summons, or offense that occurred at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event. In addition to the full name of the

student, the district attorney shall report the student's date of birth, race, ethnicity, and gender and the arrest or incident report number, as recorded by a law enforcement agency. Information, including expunged record information, released by a district attorney to the division of criminal justice pursuant to this section must only be used for research purposes related to school discipline.

SECTION 5. In Colorado Revised Statutes, 24-33.5-503, **add** (1)(r.5) as follows:

24-33.5-503. Duties of division. (1) The division has the following duties:

(r.5) TO ADMINISTER THE JUVENILE DIVERSION PROGRAM CREATED AND AUTHORIZED IN SECTION 19-2-303, INCLUDING THE ALLOCATION OF MONEY FOR THE PROGRAM;

SECTION 6. In Colorado Revised Statutes, 19-2.5-402, **repeal as added by Senate Bill 21-059** (4)(b) as follows:

19-2.5-402. [Formerly 19-2-303] Juvenile diversion program - authorized - report - legislative declaration - definitions. (4) District attorneys' offices or the offices' designees shall:

- (b) Use the results of the risk screening to inform:
 - (I) Eligibility for participation in a juvenile diversion program;
 - (II) The level and intensity of supervision for juvenile diversion;
 - (III) The length of supervision for juvenile diversion; and

(IV) What services, if any, may be offered to a juvenile. Professionals involved with the juvenile's needs, treatment, and service planning, including district attorneys, public defenders, probation, and state and local governmental entities, such as the state or county departments of human or social services, may collaborate to provide appropriate diversion services in jurisdictions where they are not currently available.

SECTION 7. In Colorado Revised Statutes, 19-2.5-402, **amend as added by Senate Bill 21-059** (7) as follows:

19-2.5-402. [Formerly 19-2-303] Juvenile diversion program - authorized - report - legislative declaration - definitions. (7) ~~A formula must be established for the purpose of allocating money to~~ THE FORMULA ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY MUST BE USED TO ALLOCATE MONEY WITHIN each judicial district in the state of Colorado for juvenile diversion programs. ~~The executive director of the department of public safety is authorized to accept and expend on behalf of the state any money, grants, gifts, or donations from any private or public source for the purpose of providing restorative justice programs; except that a gift, grant, or donation shall not be accepted if the conditions attached to it require the expenditure in a manner contrary to law.~~ THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL REVIEW THE FORMULA EVERY THREE YEARS. THE DIVISION OF CRIMINAL JUSTICE

SHALL PRIORITIZE FUNDING FOR PROGRAMS THAT INCLUDE RESTORATIVE JUSTICE PRACTICES. THE DIVISION OF CRIMINAL JUSTICE MAY CONTRACT WITH DISTRICT ATTORNEYS' OFFICES, GOVERNMENTAL UNITS, AND NONGOVERNMENTAL AGENCIES FOR REASONABLE AND NECESSARY EXPENSES FOR SERVICES TO SERVE EACH JUDICIAL DISTRICT TO UTILIZE IN DIVERTING JUVENILES AND TO PROVIDE SERVICES, IF WARRANTED, FOR ELIGIBLE JUVENILES THROUGH COMMUNITY-BASED PROGRAMS THAT PROVIDE AN ALTERNATIVE TO ENTRY INTO THE FORMAL LEGAL SYSTEM, A PETITION FILED PURSUANT TO SECTION 19-2-512, OR AN ADJUDICATORY HEARING HELD PURSUANT TO SECTION 19-2-804.

SECTION 8. Effective date. This act takes effect upon passage; except that:

(1) Section 3 of this act takes effect July 1, 2023, only if Senate Bill 21-059 does not become law.

(2) Section 6 of this act takes effect only if Senate Bill 21-059 becomes law, in which case section 6 takes effect upon the effective date of this act or Senate Bill 21-059, whichever is later; and

(3) Section 7 of this act takes effect only if Senate Bill 21-059 becomes law, in which case section 7 takes effect July 1, 2023.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: April 29, 2021